

REMARKS

Claims 1-33 are now pending in this application. The non-final Office Action mailed August 16, 2004 rejected claims 1-2, and 4-22. Claims 3 and 4 were objected to in the Office Action. In response, claims 1-3, 5, 7, 9-11, 12, and 18-21 are amended, claims 6, 12, 15-16, and 22 are canceled, and claims 23-29 are new. No new matter has been added. In addition, the Office Action noted that the oath or declaration is defective because the inventor's signatures are missing. For the reasons discussed in detail below, Applicants submit that the pending claims are patentable over the art of record and respectfully request that the Examiner pass this application to issue.

Defective Oath/Declaration:

Applicants submit that a signed declaration was filed with the U.S. Patent and Trademark Office on April 20, 2001, in response to a Notice to File Missing Parts. Applicants have attached a copy of the filing with this response. ✓

Common Ownership:

The Office Action has rejected Claims 1-2, 5-12, and 18-22 under 35 U.S.C. §103(a) as being unpatentable over USPAP 2002/0040400 by Masters filed December 4, 2001, and Claims 13-17 under 35 U.S.C. §103(a) over Masters in view of USPN 6,078,943 issued to Yu. Applicants respectfully traverse these rejections.

Applicants respectfully submit that the present application and Application USPAP 2002/0040400 by Masters, at the time the invention of the present application was made, were owned by, or subject to an obligation of assignment to, F5 Networks, Inc. As such, USPAP 2002/0040400 is disqualified from being used in a rejection under 35 U.S.C. §103(a) against the claims of the present application. Therefore, for at least the reason stated above, Claims 1-2, 5, 7-11, and 18-21 should be allowed to issue over Masters.

Claim Objections:

The Office Action objected to Claims 3-4 as being dependent upon a rejected base claim, but noted that they would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants thank the Examiner, and have amended claim 3 to include all of the limitations of its base claim (claim 1). Therefore, Applicants respectfully submit that Claims 3-4 should now be allowed to issue.

Claim Rejections Under §103:

The Office Action rejected Claims 1-2, 5-12, and 18-22 under 35 U.S.C. 103(a) as being unpatentable over USPAP 2002/0040400 by Masters. The Applicants respectfully further traverses this rejection.

The Applicants submit that claims 1-2, 5, 7-11, and 18-21 are not made obvious based on Masters. For example, amended independent claim 1 recites a method for enabling access to a resource on a wide area network environment that includes a plurality of server array controllers (SACs), each SAC having at least one corresponding server. The method includes, among other things, receiving a request for a domain name resolution from a requestor; performing a mathematical conversion of the requestor's Internet Protocol (IP) address to produce a result, wherein the mathematical conversion is based, in part, on a number of servers associated with the plurality of SACs; and employing the result of the mathematical conversion to select a target server array controller from the plurality of SACs.

In contrast to the claimed invention, Masters does not disclose or suggest performing a mathematical conversion of the requestor's IP address to produce a result, wherein the mathematical conversion is based, in part, on a number of servers associated with the plurality of server array controllers. Instead Masters describes a server array controller to select a plurality of node servers using a variety of listed functions. See Masters at [0009], [0012], and [0013]. However, Masters does not disclose performing a mathematical conversion of the requestor's IP address. Nor does

Masters disclose or suggest using a mathematical conversion that is based on the number of servers associated with the plurality of server array controllers.

Moreover, Masters does not disclose or suggest receiving a request for a domain name resolution. Rather, Masters describes a method for examining an HTTP request to determine when a cookie is included with the request. The method provides for sending the HTTP request to a server array controller that selects one of a plurality of node servers to receive the HTTP request based on information in the cookie. See Masters [0008]-[0009]. Thus, Masters does not teach receiving a request for a domain name resolution as claimed by the present invention.

Masters also does not contemplate selecting a target server array controller from a plurality of server array controllers. The Office Action agrees that Masters does not teach selecting one of a plurality of server array controllers. However, the Office Action attempts to argue that it would have been obvious to one of ordinary skill to employ a plurality of server array controllers. The Office Action provides no documentary evidence that use of a plurality of server array controllers was obvious at the time the invention was made. Thus, Masters is insufficient to disclose or suggest Claim 1.

Therefore, for at least the reasons stated above, Claim 1 should be allowed to issue. Furthermore, because Claims 2, 5, 7-11, and 18-21 depend from independent claim 1, they are allowable for at least the same reason as claim 1, and therefore should be allowed to issue.

It is further noted that although claim 1 is amended, not all of the changes are made for the purpose of patentability. For example, the amendments to claim 1 regarding element (d), (e), and (f) have been made to further capture that which the Applicants claim to be their invention, and not for any purposes related to patentability.

Furthermore, amended independent claims 18- 21 include limitations similar to, but different from, those described above for amended independent claim 1. Thus, for at least the same reasons as described above for claim 1, claims 18-21 are also non-obvious in view of the cited references, and should be allowed to issue.

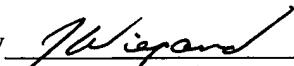
In addition, Applicants respectfully submit that Claims 13, 14, and 17 are not made obvious based on Masters in view of USPN 6,078,943 issued to Yu. First, for the reasons stated above, Masters is an improper reference and should be withdrawn. Second, Yu does not teach nor suggest the limitation of Claim 13, of “employing an extended domain name system (EDNS) server to load balance a request … associated with the requestor for handling by a selected server array controller...” Nor does Yu teach or suggest Claim 13’s additional limitation of “employing the EDNS to load balance the subsequent request.” Yu does not describe nor suggest using a server array controller. Although Yu states that an arbitrator may be any computing node that can schedule a mapping request to one of the server nodes (Yu, Col. 5, lines 23-25), Yu only discloses the extended DNS (XDNS) as an arbitrator (See Yu, Col. 5, lines 7-8). Thus, Yu alone, or in combination with Masters, is insufficient to disclose or suggest Claim 13. Therefore, for at least this reason, Claim 13 also should be allowed to issue. Furthermore, because Claims 13, 14, and 17 depend from independent claim 13, these claims are also in condition for allowance.

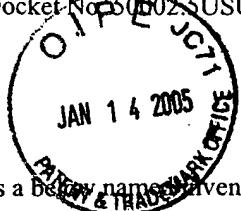
CONCLUSION

By the foregoing explanations, Applicants believe that this response has responded fully to all of the concerns expressed in the Office Action, and believes that it has placed each of the pending claims in condition for immediate allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. Should any further aspects of the application remain unresolved, the Examiner is invited to telephone applicant’s attorney at the number listed below.

Dated: January 14, 2005

Respectfully submitted,

By 
Jamie L. Wiegand
Registration No.: 52,361
DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257
(206) 262-8900
(212) 753-6237 (Fax)
Attorneys/Agents For Applicants



MERCHANT & GOULD P.C.

United States Patent Application

COMBINED DECLARATION AND POWER OF ATTORNEY

COPY

*in filed with response to
Notice to file missing
parts on 4/19/01*

As a ~~below~~ named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: METHOD AND SYSTEM FOR ENABLING PERSISTENT ACCESS TO VIRTUAL SERVERS BY AN LDNS SERVER.

The specification of which

- a. is attached hereto
- b. was filed on January 31, 2001 as application serial no. 09/773,427 and was amended on (if applicable) (in the case of a PCT-filed application) described and claimed in international no. filed and as amended on (if any), which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

- a. no such applications have been filed.
- b. such applications have been filed as follows:

FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119

COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S)

COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

U.S. PROVISIONAL APPLICATION NUMBER	DATE OF FILING (Day, Month, Year)
60/179,051	January 31, 2000

cknowledge the duty to disclose information that is material to the patentability of this application in accordance with Title 37, Code of
ederal Regulations, § 1.56 (reprinted below):

.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of an existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office is practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
 - (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and
- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim;
 - (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
- (1) Each inventor named in the application;
 - (2) Each attorney or agent who prepares or prosecutes the application; and
 - (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.
- (e) In any continuation-in-part application, the duty under this section includes the duty to disclose to the Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2	Full Name Of Inventor	Family Name Skene	First Given Name Bryan	Second Given Name D.
0	Residence & Citizenship	City Seattle	State or Foreign Country Washington	Country of Citizenship USA
1	Mailing Address	Address 3026 NE 103 rd Street	City Seattle	State & Zip Code/Country Washington 98125 / USA

Signature of Inventor 201:

Bryan D. Skene

Date:
3/20/2001

2	Full Name Of Inventor	Family Name Thornewell	First Given Name Peter	Second Given Name M.
0	Residence & Citizenship	City Seattle	State or Foreign Country Washington	Country of Citizenship UK
2	Mailing Address	Address 2102 N 87 th Street	City Seattle	State & Zip Code/Country Washington 98103 / USA

Signature of Inventor 202:

P.M. Thorne

Date:
3/20/2001

COPY
as filed 3/17/04

Patsy filing Date: 03/17/04

PTO/SB/82 (09-03)

Approved for use through 11/30/2005. OMB 0651-0035
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REVOCATION OF POWER OF ATTORNEY WITH NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS	Application Number	09/773,427
	Filing Date	January 31, 2001
	First Named Inventor	Bryan D. Skene
	Art Unit	N/A
	Examiner Name	Not Yet Assigned
	Attorney Docket Number	08204/1200301-US1

I hereby revoke all previous powers of attorney given in the above-identified application.

A Power of Attorney is submitted herewith.

OR

I hereby appoint the practitioners associated with the Customer Number: 38878

Please change the correspondence address for the above-identified application to:

The address associated with Customer Number: 38878

OR

<input type="checkbox"/> Firm or Individual Name	DARBY & DARBY P.C. John W. Branch
--	--------------------------------------

Address	P.O. Box 5257				
City	New York				
Country	US	State	NY	Zip	10150-5257
Telephone	(212) 527-7700		Fax	(212) 753-6237	

I am the:

Applicant/Inventor.

Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record

Name	Joann Reiter, Vice President & General Counsel		
Signature			
Date	February 12, 2004	Telephone	(206)272-5555

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.



*Total of 1 forms are submitted.

COPY

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STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Bryan D. Skene et al.

Application No./Patent No.: 09/773,427 Filed/Issue Date: January 31, 2001

METHOD AND SYSTEM FOR ENABLING PERSISTENT ACCESS TO VIRTUAL SERVERS BY
Entitled: AN LDNS SERVERF5 Networks, a Corporation
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. the assignee of the entire right, title, and interest; or
2. an assignee of less than the entire right, title and interest.

The extent (by percentage) of its ownership interest is _____ %
in the patent application/patent identified above by virtue of either:

A. [x] An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 011741,
Frame 0785, or for which a copy thereof is attached.

OR

B. [] A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.
2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.
3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

[] Additional documents in the chain of title are listed on a supplemental sheet.

[] Copies of assignments or other documents in the chain of title are attached.

[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

February 12, 2004

Date

Joann Reiter

Typed or printed name

(206) 272-5555

Telephone Number

Signature

Vice President & General Counsel

Title